

Remarks

This Amendment is provided in response to the Office Action mailed September 1, 2004, which rejected claims 1 – 13. In response, the Applicant has provided amendments to claims only to more particularly point out and distinctly claim that which is the patentable subject matter of the present invention. These amendments are not narrowing in view of a rejection over a cited reference, do not introduce new matter, and will not provide an undue burden upon the Examiner.

Objection to the Specification

The specification was objected to for the informality associated with the term “is” before the term “shows” in paragraph [0009]. The Applicant has amended the specification to obviate the objection. Withdrawal of the objection is respectfully requested.

Objection to Claims

Claim 3 was objected to for the informality associated with the phrase “step of” before the phrase “orienting step.” The Applicant has amended the specification to obviate the objection. Withdrawal of the objection is respectfully requested.

Claim 12 was objected to for the informality associated with the term “or” instead of the term “and.” The Applicant has amended the specification to obviate this objection. Withdrawal of the objection is respectfully requested.

Rejection Under Section 112, Second Paragraph

Claims 1-13 were rejected for indefiniteness.

Claim 1

Claim 1 was rejected for lacking an antecedent basis for the phrase “the stacked disc array” in line 11. The Applicant has amended claim 1 to add the term “array” after the phrase “stacked disc” in line 1 to correct a previous typographical error. The Applicant intended the preamble language to recite the “stacked disc array” in the Submission previously filed with the Request for RCE, which states in part: “Claim 1 has been amended to delete “disc stack” and substitute therefor “stacked disc array.” (Submission, page 4). The present amendment obviates the rejection of claim 1. Reconsideration and withdrawal

of the present rejection of claim 1 and all the claims depending therefrom are respectfully requested.

Claim 10

Claim 10 was rejected for indefiniteness associated with the phrase "a disc comprising an index mark" of claim 10 in view of the phrase "each disc comprising an index mark" of claim 1. Claim 10 has been amended to obviate the rejection. Reconsideration and withdrawal of the present rejection are respectfully requested.

Rejection Under Section 102

Claims 1, 3, and 13 were rejected as being anticipated by Tigner '480. This rejection is respectfully traversed.

Claim 1

Tigner '480 cannot sustain the Section 102 rejection because it does not identically disclose all the recited features of claim 1, which include at least the following:

*obtaining each disc comprising an index mark adaptively
indicating a rotational position of the respective disc....
(excerpt from claim 1)*

Tigner '480 clearly discloses only that of in-situ writing servo information. In so doing, Tigner '480 writes an index mark 265 to the discs in order to stagger the servo spokes within a servo frame. For example, Tigner '480 discloses: "An INDEX mark data pattern 265 is written at only one rotational position on each disc surface." (Tigner '480, col. 3 lines 19-21)

The Applicant has already successfully distinguished the embodiments of the present invention over previous solutions that write index marks after the discs are obtained and placed into the disc stacking machine. In Applicant's Amendment in response to the first Office Action it was clearly pointed out that the timing marks of Codilian '564 do not anticipate the index marks of the embodiments of the present invention because the timing

marks are written by the disc stacking machine after obtaining the discs. The Examiner, after acquiescence to the distinction over Codilian '564, now resorts to the same basis for the present rejection. First, the index marks 265 of Tigner '480, like Codilian '564, are not provided by obtaining discs comprising an index mark, as presently claimed. Furthermore, a skilled artisan readily recognizes that in order to write the index marks 265 in relation to a "rotational position," Tigner '480 must necessarily first write timing index marks defining the rotational positions, in the same manner described by Codilian '564.

The Applicant expressly traverses the Examiner's assertion that Tigner '480 discloses the obtaining, orienting, writing, removing, and reorienting steps of the embodiments of the present invention as claimed in claim 1. For example, Tigner '480 is silent regarding *obtaining each disc comprising an index mark adaptively indicating a rotational position of the respective disc*. Accordingly, the Section 102 rejection is erroneous as a matter of law because it does not identically disclose all the recited features of claim 1. Reconsideration and withdrawal of the present rejection of claim 1 and the claims depending therefrom are respectfully requested.

Rejection Under Section 103

Claims 2 and 4-12 were rejected as being obvious over Tigner '480. This rejection is respectfully traversed. These claims are allowable as dependent claims from an allowable independent claim 1, for reasons above, that provide additional limitations thereto. Reconsideration and withdrawal of the present rejection are respectfully requested.

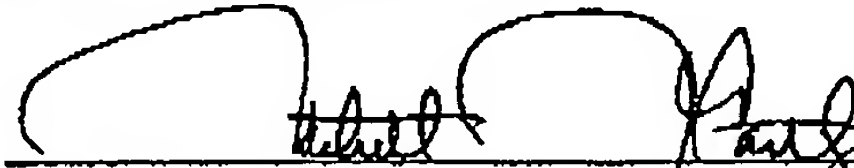
Conclusion

This is intended to be a complete response to the Office Action mailed September 1, 2004. The amendments contained herein are proper, are not narrowing in view of a rejection over a cited reference, do not add new matter, and do not place an undue burden or require additional searching by the Examiner. All rejections and objections are obviated such that the pending claims are in condition to pass allowance.

The Applicant requests an expedited response on the merits because the present rejection is erroneously based on an already settled issue, and the commensurate delay to Applicant here and from the previous RCE requirement has unduly prolonged the obtaining of patent rights to a valuable invention. Particularly, Applicant's representative signing below respectfully requests a telephone interview if there are any remaining issues preventing the claims from passing to allowance.

Respectfully submitted,

By:



Mitchell K. McCarthy, Registration No. 38,794
Randall K. McCarthy, Registration No. 39,297
Fellers, Snider, Blankenship, Bailey and Tippens, P.C.
100 N. Broadway, Suite 1700
Oklahoma City, Oklahoma 73102
Telephone: (405) 232-0621
Facsimile: (405) 232-9659
Customer No. 33900